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**BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF CALIFORNIA**

Order Instituting Rulemaking into the Review  
of the California High Cost Fund B Program.

R.06-06-028

**OPENING COMMENTS OF SUREWEST TELEPHONE (U 1015 C)  
ON ASSIGNED COMMISSIONER'S RULING  
RELATED TO CALIFORNIA ADVANCED SERVICES FUND**

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September 26, 2007

1 **I. INTRODUCTION.**

2 SureWest Telephone ("SureWest") provides the following opening comments on the  
3 Assigned Commissioner's Ruling Related to The California Advanced Services Fund ("CASF")  
4 herein dated September 12, 2007 ("ACR").

5 Despite the fact that SureWest is unlikely to be a recipient of subsidy funds from any  
6 CASF, and that any funding mechanism adopted to support a CASF is likely to require  
7 contribution from SureWest's customers, SureWest generally supports the ideal of a California  
8 Advanced Services Fund in order to bring broadband service to high cost unserved areas.  
9 However, SureWest believes that the Commission should work with the California legislature in  
10 the creation of a CASF in order to insure that there is a solid legal basis for moving forward with  
11 such a fund and to prevent litigation or appeals that seek to prevent its implementation.

12 SureWest's support for a CASF is based upon certain assumptions and recommendations  
13 concerning the details of the program. SureWest supports a CASF that has the following  
14 characteristics:

- 15 1. The program needs to first be targeted to specific areas that are unserved by  
16 broadband and that are uneconomic to serve with existing technologies at the time of the grant;
- 17 2. The program should not pick winning technologies, e.g. prefer cable over DSL or  
18 wireless over fiber, but subsidies should only go to those companies whose customers are  
19 contributing to the fund;
- 20 3. The program should be kept small, with a dollar limit for annual funding of  
21 projects; and
- 22 4. The program should sunset within a reasonable time; e.g. five years.

23 Finally, SureWest will provide specific answers to the questions posed in the ACR to the  
24 extent possible at this time.

25  
26 **II. IF PROPERLY STRUCTURED, THE CASF WILL BE GOOD FOR CALIFORNIA  
27 AND ITS ECONOMY.**

28 Beginning at p. 53 (mimeo) of D. 07-09-020 the Commission explains the rationale and

1 advantages of the proposed CASF. It notes that the Governor has created, by Executive Order, the  
2 California Broadband Task Force to "identify opportunities for increased broadband adoption, and  
3 enable the creation and deployment of new advanced communication technologies." Id. at p. 57.  
4 However, the Commission should not prejudge the facts developed by and recommendations that  
5 will result from this Task Force. The Commission also notes that the Legislature has enacted  
6 several laws designed to encourage investment in broadband infrastructure. Id. at 59. At p. 55,  
7 the Commission states that "[a]pplications enabled by broadband development generate  
8 productivity and growth in numerous Internet industries in California including e-learning,  
9 telemedicine, and entertainment among others." SureWest agrees with this analysis and believes  
10 a targeted and limited CASF will be good for California and its economy.

### 11 12 **III. THE COMMISSION SHOULD WORK WITH THE LEGISLATURE TO CREATE** 13 **THE CASF.**

14 In D. 07-09-020 at pp. 56 – 67 the Commission describes the sources of its authority to  
15 develop the CASF. It also notes, however, at p. 67, footnote 115, that certain parties have  
16 questioned the Commission's authority to act without further authorization. SureWest has nothing  
17 more to add to this debate at this time, but believes that the Commission would be wise to wait for  
18 the report to come out from the California Broadband Task Force and then move forward, as  
19 necessary, to enlist the support of the Legislature to act decisively in authorizing a program like  
20 the CASF. SureWest believes such a course of action would provide the necessary support for the  
21 program without fear that a party could undo a Commission approved CASF and avoid the legal  
22 challenges and delay such an eventuality would entail. If the Commission is correct about the  
23 intent of the Legislature in this area, such support should be forthcoming and the Commission can  
24 then move forward with the confidence that its work will not be undone. In addition, the  
25 Legislature has tools such as tax credits that may be useful as an addition to or instead of creating  
26 a separate funding program to expand broadband to all areas of the state. The Legislature may  
27 also be able to fund a program to subsidize customer premise equipment to low income  
28 subscribers that could complement any broadband initiative.

1 **IV. THE CASF SHOULD BE TARGETED TO SUBSIDIZE ONLY UNSERVED AND**  
2 **UNDERSERVED AREAS THAT ARE NOT ECONOMIC FOR BROADBAND**  
3 **PROVIDERS TO OFFER THE REQUISITE LEVEL OF BROADBAND SERVICE.**

4 Appendix 3 to D. 07-09-020 states that the CASF is to be limited to provide subsidy for an  
5 area that "...is either not being served or is underserved at less than speed of 3 MBPS  
6 downstream." SureWest believes that any funding should first provide subsidies for areas that are  
7 not being served and then look at areas that may be underserved. SureWest also believes that any  
8 request for funding in a proposed area needs to be scrutinized carefully, and such area should be  
9 demonstrated to be uneconomic to serve either by virtue of lack of potential subscriber density,  
10 topography or some other indicia of not being economic to serve such area. Some unserved or  
11 underserved parts of California, as defined by the Commission, may be economic to serve at a  
12 profit with no subsidy although they are not yet being served or are being underserved. All  
13 service providers prioritize their investments, and areas that are economic to serve will receive  
14 service in due course. Many service providers are reportedly ramping up their broadband  
15 investments, and the Commission can expect that unserved or underserved areas that are economic  
16 to serve will receive service before long without subsidy. In addition, technology is advancing,  
17 and services like Wi-Max, satellite and others will become more widely available and less  
18 expensive, and service may be extended by providers offering those services without subsidy.  
19 Some showing of an area being uneconomic to serve in the foreseeable future with existing  
20 technology should be required before a subsidy is available.

21 **V. THE COMMISSION SHOULD LIMIT THE TOTAL AMOUNT OF GRANTS ON**  
22 **AN ANNUAL BASIS.**

23 Initially, the size of the CASF should be limited based on information that comes out of the  
24 California Broadband Task Force report. This group has already been tasked by the Governor  
25 with determining what is the broadband capability and status in California. To simply use the  
26 excess amounts collected via the CHCF-B surcharge provides little basis of support and does not  
27 provide the reduction in consumers telecommunications bills consumers are expecting based on  
28 D.07-09-020. SureWest believes that the CASF should have a total annual funding limit placed on

1 subsidy grants of a lesser amount to insure that the subsidies are directed only to areas where need  
2 is clearly established. An unlimited fund could easily become a source of unnecessary subsidy for  
3 areas that are economic to serve with broadband, and promote waste, fraud and abuse.

#### 4 **VI. THE CASF SHOULD BE TIME LIMITED**

5 SureWest believes that the CASF should be limited to a reasonable initial time period such  
6 as five years. Such a time limit would facilitate an early review of the operation of the CASF and  
7 renewal only if it is achieving its objective in a cost effective way. In addition, the CASF should  
8 not "chase" technology, which will surely evolve and improve over time, to pursue faster speeds  
9 and thereby continually redefine "underserved" areas and perpetuate the CASF. SureWest sees the  
10 CASF as being a temporary "boost" to broadband deployment and not a continuing source of  
11 funding for never ending upgrades to broadband.  
12

#### 13 **VII. THE CASF SHOULD BE TECHNOLOGY NEUTRAL.**

14 In D. 07-09-020 the Commission recognized that the CASF should be administered on a  
15 technologically neutral fashion. Id., p. 68, mimeo. This is important, because by providing  
16 subsidies for specific, target projects the Commission should not be picking technological winners  
17 and losers. However, such subsidies should not go to companies whose customers do not  
18 contribute to help support such a program or whom the Commission does not oversee. It makes  
19 little sense for customers of regulated telecommunications carriers to support unregulated  
20 companies' provision of broadband services. This would only serve to further skew the  
21 competitive marketplace.  
22

#### 23 **VIII. ANSWERS TO SPECIFIC QUESTIONS**

24 **1. "Address the policy merits and legal basis for funding the CASF under the**  
25 **provisions of the CHCF-B program versus establishing an entirely new independent funding**  
26 **program pursuant to the Commission's statutory authority under Pub. Util. Code § 701."**

27 See discussion above concerning working with the Legislature to establish the program.

28 **2. "What overall dollar amount, funding sources(s) and time considerations are**

1 appropriate for the CASF to build advanced infrastructure in California? To what extent  
2 should matching funds be required? To what extent, and subject to what criteria, should  
3 existing CHCF-B Fund contributions (versus independent sources) be used to fund the  
4 CASF?

5 See discussion above regarding working with the Legislature to establish the program.  
6 Matching funds should be required as described in Appendix 3 so that applicants are on notice that  
7 they are providing their own investment capital for the proposed project, and not simply risking  
8 public money. There is no particular advantage of a new funding source over the existing funding  
9 source for the B-Fund.

10 3. "What process should be established for prospective applicants to apply for and  
11 receive grants of CASF money for the purpose of deploying broadband services which will  
12 include as one component basic residential service within underserved or unserved areas  
13 consistent with universal service goals as discussed in D. 07-09-020?"

14 The process set out in Appendix 3 appears reasonable except for the build out limit  
15 prescribed. Some flexibility should be provided based upon a showing of good cause. However,  
16 see comments above concerning working with the Legislature.

17 4. "Comments are solicited on the merits of the process to apply for funding the  
18 California Advanced Services Fund in Appendix 3 of D. 07-09-020 (attached to this ruling  
19 for reference). Are there additional requirements that should be added to help avoid waste,  
20 fraud and abuse? For any suggested modifications, clarifications or refinements to the  
21 process proposed in Appendix 3, parties should provide supporting rationale.

22 The process described in Appendix 3 appears reasonable for the most part. Build out  
23 requirements should be more flexible based upon a showing of good cause. In certain cases, 18 –  
24 24 months from grant to completion may not be adequate.

25 5. "Comments are solicited as to whether an application for CASF funding should  
26 trigger and open a 60-day window for other applications for substantially the same  
27 geographic area."

28 Yes. Additional applicants will produce competitive proposals which will lead to more

1 efficient deployment of broadband.

2       **6. "D. 07-09-020 stated that CASF applicants must meet specific audit, verification**  
3 **and other requirements with respect to the use of funds, subject to procedures adopted in**  
4 **the next phase of the proceeding. Parties should identify specific audit, verification, and**  
5 **other requirements that would be warranted as a basis to administer the CASF funding**  
6 **consistent with the universal service goals as discussed in D. 07-09-020."**

7       Commission staff should be assigned to audit each project based upon the amount of the  
8 grant and the scope of the project being subsidized. Upon completion of an audit, and an  
9 opportunity for the service provider to review it and make comments, the Commission should be  
10 authorized to withhold funds from the final disbursement of the grant pending correction of any  
11 problems discovered in the course of the audit.

12       **7. "If Pub. Util. Code § 739.3 is the basis for the CASF, comments are solicited as to**  
13 **whether the use of the term "telephone corporation" in that section may limit recipients of**  
14 **CASF money to those entities qualifying under Pub. Util. Code § 234."**

15       This outcome is possible and would appropriately limit the types of providers eligible for  
16 CASF subsidy to those entities and customers providing the funding. Working with the  
17 Legislature could possibly expand the funding and qualifying entities.

18  
19 **IX. CONCLUSION.**

20       While SureWest agrees with the Commission that the proposed CASF would be in the  
21 interest of California and its Citizens such a program should be limited as describe above and the

22       ///


23       ///

24       ///

1 Commission should work with the Legislature to properly authorize the creation of a CASF and  
2 imposes sensible limits on its availability, size and duration.

3 Dated this 26th day of September, 2007, at San Francisco, California.

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16 588286.1



1 **CERTIFICATE OF SERVICE BY MAIL**

2 I, Martin Spence, declare:

3 I am a resident of the State of California, over the age of eighteen years, and not a party to  
4 the within action. My business address is COOPER, WHITE & COOPER LLP, 201 California  
5 Street, 17th Floor, San Francisco, CA 94111.

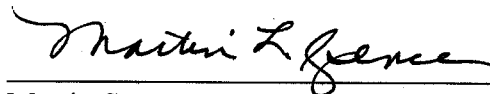
6 On September 26, 2007, I served a true copy of the:

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9 **ON ASSIGNED COMMISSIONER'S RULING**  
10 **RELATED TO CALIFORNIA ADVANCED SERVICES FUND**  
11

12 by placing a true and correct copy thereof with the firm's mailing room personnel, for mailing in  
13 accordance with the firm's ordinary practices, to the parties on the CPUC's service list for this  
14 proceeding. A true and correct copy was also e-mailed to those parties on the attached CPUC  
15 service list who provided an e-mail address.

16 I declare under penalty of perjury that the foregoing is true and correct.

17 Executed on September 26, 2007, at San Francisco, California.

18  
19 

20 Martin Spence  
21  
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